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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,112	06/30/2006	Amy Levinson	82753	5097
20529	7590	08/07/2007		
NATH & ASSOCIATES 112 South West Street Alexandria, VA 22314			EXAMINER COHEN, AMY R	
			ART UNIT 2859	PAPER NUMBER
			MAIL DATE 08/07/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/585,112	Applicant(s) LEVINSON ET AL.	
	Examiner Amy R. Cohen	Art Unit 2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/26/06</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Claims 11 and 16 are objected to because of the following informalities:

Claim 11, line 3 "said longitudinally extending rib" lacks antecedent basis in the claims.

Claim 16 appears to be repetitive of the subject matter claimed in claim 7. For purposes of prosecution, the rejection of claim 16 is considered to be found in the rejection of claim 7.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4, 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Walden (U.S. Patent No. 2,515,680).

Walden teaches a pocket level having a horizontal bubble vial (Fig. 1) for indicating the inclination of a horizontally disposed surface with respect to the horizontal, the pocket level comprising a generally prismatoidal body (10) with front and rear surfaces, and a generally quadrilateral surround including a leveling surface for placing on the horizontally disposed surface and an upper surface opposite said leveling surface (Figs. 1 and 2, Col 1, lines 43-48), said body rotatably supporting an angle finder (14) having a wheel rim with a bubble vial (24) diametrically extending thereacross (Figs. 1-3) and having an external non-slip circumferential

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wheel rim surface (Figs. 1-3, Col 1, line 49-Col 2, line 13, Col 2, lines 36-50), and said quadrilateral surround having a throughgoing cut (13) out for enabling user direct access to a minor arc portion of said wheel rim surface thereby enabling user direct rotation of said wheel rim which said leveling surface is placed on an inclined surface for enabling determination of the angle of the inclined surface (Figs. 1-4, Col 2, lines 36-50).

Walden teaches the level wherein said upper surface is formed with said throughgoing cutout (13, Figs. 1 and 3) for enabling access to a minor arc portion of said wheel rim surface thereby enabling user direct rotation of said wheel rim (Col 2, lines 36-50).

Walden teaches the level wherein said body includes a pair of opposite and spaced apart raceways (15, 16) for rotatably supporting said wheel rim (Figs. 1, 3, 4, Col 1, lines 43-55), and said wheel rim includes at least one resiliently flexible member (22) urged against one of said pair of raceways for frictionally impeding direct user rotation of said rotatable bubble vial (Col 3, lines 4-14).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 6-8, 12, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walden in view of Warner (U. S. Patent No. 767,188).

Walden discloses the level as described above in paragraph 3.

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Walden does not disclose the level wherein said body has a recess for assembly of a detachable line level having a horizontal bubble vial for indicating the inclination of a horizontally disposed line with respect to the horizontal therein such that said line level's horizontal bubble vial doubles as the pocket level's horizontal bubble vial; wherein said body includes a substantially centrally disposed throughgoing recess for assembly of said line level therein; wherein said upper surface has a throughgoing cutout for enabling said line level's horizontal bubble vial to be views therefrom when said line level is assembled therein.

Warner discloses a pocket level (1) having a horizontal bubble vial (19) for indicating the inclination of a horizontally disposed surface with respect to the horizontal wherein said body (1) has a recess (2) for assembly of a detachable line level (15, 19) having a horizontal bubble vial (19) for indicating the inclination of a horizontally disposed line (20) with respect to the horizontal therein such that said line level's horizontal bubble vial doubles as the pocket level's horizontal bubble vial (Figs. 1-4, Col 1, line 47-Col 2, line 82); wherein said body includes a substantially centrally disposed throughgoing recess for assembly of said line level therein (Figs. 1-3); wherein said upper surface has a throughgoing cutout for enabling said line level's horizontal bubble vial to be views therefrom when said line level is assembled therein (Figs. 1-3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a detachable line level to the level of Walden, as taught by Warner, so that a user could use the level as a conventional level and detach the line level to be used separately, thereby increasing the usefulness of the level device (Warner, Col 2, line 83-Col 3, line 7).

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6. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walden and Warner as applied to claims 1-8, 12, 16 above, and further in view of Wright (U. S. Patent No. 4,419,833).

Walden and Warner disclose the level as described above in paragraph 5.

Walden and Warner do not disclose the level wherein said line level has a bottom surface formed with a groove extending longitudinally therealong and said recess has a longitudinally extending rib for snug insertion into said groove on assembly of said line level therein; wherein said body includes an upwardly extending elongated member whose upper portion constitutes said longitudinally extending rib.

Wright discloses a level wherein said bubble level has a bottom surface formed with a groove (54, 60) extending longitudinally therealong (Figs. 4-7) and said recess has a longitudinally extending rib (16) for snug insertion into said groove on assembly of said bubble level therein (Figs. 1-8); wherein said body includes an upwardly extending elongated member (14, 16) whose upper portion constitutes said longitudinally extending rib (Figs. 1-8, Col 3, lines 1-6, Col 4, lines 15-48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a groove and rib in the level of Walden and Warner, as taught by Wright, in order to reduce the overall weight of the device by not using a solid block and increase the rigidity and accuracy by including the longitudinally extending rib.

7. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walden, Warner, and Wright as applied to claims 1-12, 16 above, and further in view of Black (U. S. Patent No. 6,829,836).

Walden, Warner and Wright disclose the level as described above in paragraph 6 and wherein said line level has a housing with a pair of upward facing cutouts at opposite ends (Warner, 14, Figs. 1-4) and wherein said recess has a pair of side walls (Warner, Figs. 1-3).

Walden, Warner and Wright do not disclose the level wherein said pair of side walls each having a U-shaped retaining member with a resiliently flexible free end for snap fitting into a cutout when said line level is assembled in said recess.

Black discloses a level comprising a U-shaped retaining members (31, 33) with a resiliently flexible free end for snap fitting into a cutout when said line level is assembled in said recess (Col 4, lines 4-14, Col 5, lines 18-30, lines 48-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the retaining means of the line level of Walden, Warner, and Wright by resilient, U-shaped retaining members, as taught by Black, so that the retaining members could be molded directed to the recess, reducing the number of parts, while providing an easy means of retaining the line level.

8. Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walden in view of Betts (UK Patent Application GB 2,210,167).

Walden discloses the level as described above in paragraph 3.

Walden does not disclose the level wherein said body has a recess for assembly of a detachable line level having a horizontal bubble vial for indicating the inclination of a horizontally disposed line with respect to the horizontal therein such that said line level's horizontal bubble vial doubles as the pocket level's horizontal bubble vial; wherein a magnet arrangement retains said line level in said recess.

Betts discloses a level (10) wherein said body has a recess for assembly of a detachable line level (18) having a horizontal bubble vial (20) for indicating the inclination of a horizontally disposed line with respect to the horizontal therein such that said line level's horizontal bubble vial doubles as the pocket level's horizontal bubble vial (Figs. 1 and 2, Page 3, lines 4-24); wherein a magnet arrangement (26) retains said line level in said recess (Page 3, line 25-Page 4, line 9).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a detachable line level to the level of Walden, as taught by Betts, so that a user could use the level as a conventional level and detach the line level to be used separately, thereby increasing the usefulness of the level device (Betts, Page 1, line 13-Page 2, line 9).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following disclose level devices Levinson et al. (U. S. Patent Des. 498,686), Owoc et al. (U. S. Patent No. 6,640,456), Ousterhout (U. S. Patent No. 4,320,581), Kocisko (U. S. Patent No. 1,215,035), and Sprengle (U. S. Patent No. 964,066).


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R. Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ARC
July 31, 2007


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PRIMARY EXAMINER
AV 2859